

Application No. 10/043518

Docket No.: 62495-00003USPT

REMARKS

In view of the foregoing amendments to the claims and the following remarks, reconsideration of the present application is respectfully requested. Applicant has amended the claims in view of the Examiner interview of November 17, 2003. Applicant wishes to thank the Examiner for the courtesy extended in granting the interview. Claims 21, 23, 25, 27, 29, 35 have been amended. Claims 22, 26, and 36 have been canceled. Claims 20-21, 23-25, 27-35, and 37-42 are currently pending.

Claims 21, 24, 25, 28, 29, 32 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,981,095 to Shepherd ("Shepherd"). Shepherd describes a sport-fishing apparatus including a hollow rod with a line extending through the rod interior. A rod handle houses a battery-powered motor having a shaft secured directly to one end of the line. The line is relatively stiff in torsion such that upon energization of the motor, rotation of one end of the line effects rotation at the opposite end of the line, thus imparting a rotational movement to a lure attached to the terminal end of the line.

Independent claim 21 has been amended to include features of dependent claim 22. Independent claim 21, as amended, is directed to a fishing pole comprising "a rod portion; a handle portion having a hollow interior space; a vibrating assembly mounted within the hollow interior space of the handle portion which, when activated, causes vibration to be initiated within the handle portion; and wherein the vibrating assembly comprises a motor having a rotating shaft; and an eccentric member mounted to, and rotated by, the shaft to effectuate the vibration which is initiated within the handle portion." Applicant respectfully submits that Shepherd fails to teach or suggest the features of claim 21.

The Office Action alleges that Shepherd shows "a fishing rod having a rod portion, 10, 12" and "a handle portion 14 with a hollow interior." The Office Action further alleges that Shepherd shows "a vibrating assembly 16, 18, 20, 22 mounted within the handle portion", and "an actuating means 32 associated with the handle portion." Applicant respectfully disagrees with the Office Action's characterization of the electric motor 16, batteries 18 and 20, and line 22 of Shepherd as a "vibrating assembly mounted within the hollow interior space of the handle portion which, when activated, causes vibration to be initiated within the handle portion."

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Applicant submits that Shepherd contains no teaching or suggestion that the electric motor 16 causes any vibration to be initiated within the handle portion 14. As previously discussed, the function of the electric motor 16 of Shepherd is to cause rotation of the line 22, not to initiate vibration in the handle portion 14. In addition, Applicant submits that Shepherd fails to teach the additional feature of claim 21 of "wherein the vibrating assembly comprises a motor having a rotating shaft; and an eccentric member mounted to, and rotated by, the shaft to effectuate the vibration which is initiated within the handle portion." In view of the foregoing, Applicant respectfully submits that independent claim 21 distinguishes over Shepherd and requests that the 35 U.S.C. 102(b) rejection of claim 21 be withdrawn.

Independent claim 25 has been amended to include features of dependent claim 26. Independent claim 25, as amended, is directed to a handle for a fishing pole comprising "a hollow interior space within the handle, a vibrating assembly mounted within the hollow interior space of the handle portion which, when activated, causes vibration to be initiated within the handle itself; and wherein the vibrating assembly comprises a motor having a rotating shaft; and an eccentric member mounted to, and rotated by, the shaft to effectuate the vibration within the handle." For similar reasons as those discussed with respect to independent claim 21, Applicant submits that Shepherd fails to teach or suggest at least the feature of claim 25 of "a vibrating assembly mounted within the hollow interior space of the handle portion which, when activated, causes vibration to be initiated within the handle itself." In addition, for similar reasons as those discussed for independent claim 21, Applicant submits that Shepherd also fails to teach or suggest the feature of claim 25 of "wherein the vibrating assembly comprises a motor having a rotating shaft; and an eccentric member mounted to, and rotated by, the shaft to effectuate the vibration within the handle." In view of the foregoing, Applicant respectfully submits that independent claim 25 distinguishes over Shepherd and requests that the 35 U.S.C. 102(b) rejection of claim 25 be withdrawn.

Independent claim 29, as amended, is directed to a fishing pole comprising "a rod portion having an axially extending hollow cavity; a handle portion having a hollow interior space; and a vibrating assembly comprising a motor mounted within the hollow interior space of the handle portion, the motor having a rotating shaft which extends into the hollow cavity of the rod portion; and an eccentric member mounted to the shaft at a position within the hollow cavity,

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the eccentric member being rotated by the shaft to cause vibration to be initiated within the rod portion." Applicant submits that independent claim 29 should be allowable because it contains subject matter that is similar to the subject matter of dependent claim 41, which the Office Action indicates is allowable. Moreover, Applicant submits that Shepherd fails to teach or suggest at least the feature of claim 29 of "a vibrating assembly comprising a motor mounted within the hollow interior space of the handle portion, the motor having a rotating shaft which extends into the hollow cavity of the rod portion; and an eccentric member mounted to the shaft at a position within the hollow cavity, the eccentric member being rotated by the shaft to cause vibration to be initiated within the rod portion." For at least the foregoing reasons, Applicant respectfully submits that independent claim 29 distinguishes over Shepherd and requests that the 35 U.S.C. 102(b) rejection of claim 29 be withdrawn.

Claims 24, 28, and 32 are dependent upon and include the limitations of independent claims 21, 25, and 29, respectively. For at least the reasons as discussed with respect to independent claims 21, 25, 29, Applicant respectfully submits that claims 24, 28, and 32, also distinguish over Shepherd and requests that the 35 U.S.C. 102(b) rejections of claims 24, 28, and 32 be withdrawn.

Claims 35, 36, and 38 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,789,534 to Yankaitis ("Yankaitis"). Yankaitis describes a electrical attachment for a fishing rod. A DC motor is mounted on a fishing rod for selectively driving a reciprocating arm. The motor and a battery are contained in a housing which is clamped onto the fishing rod. The reciprocating arm passes through a pivotally mounted connecting block which allows the arm to reciprocate therethrough, the reciprocating arm terminating in an eye circumjacent to the fishing line. As a result, movement of the reciprocating arm by the motor results in movement of the eye such that each revolution of the motor creates two pulls on the fishing line.

Independent claim 35 has been amended to include features of dependent claim 36. Independent claim 35 as amended is directed to a vibrating assembly for use with a fishing pole comprising "a housing having a hollow interior space, a vibrating assembly mounted within the hollow interior space of the housing which, when activated, caused vibration to be initiated

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within the housing itself, and mounting means for attaching the housing to a selected location of the fishing pole for transferring the initiated vibration to the fishing pole; and wherein the vibrating assembly comprises a motor having a rotating shaft; and an eccentric member mounted to, and rotated by, the shaft to effectuate the vibration initiated within the housing." Applicant respectfully submits that Yankaitis fails to teach or suggest the features of claim 35.

The Office Action alleges that Yankaitis shows "a fishing rod with a vibrating assembly which comprises a housing 20, a vibrating assembly 32, 34, and 48 mounted within the interior of the housing." The Office Action further alleges that Yankaitis shows "mounting means 24 for attaching the housing to a fishing pole at a selected location for transferring the initiated vibration to the fishing pole since inherently, some of the rotational energy will be transferred directly to the pole." Applicant respectfully disagrees with the assertion of the Office Action that the motor 32, the battery 34, and the reciprocating arm 48 of Yankaitis comprises a "a vibrating assembly mounted within the hollow interior space of the housing which, when activated, caused vibration to be initiated within the housing itself." As described in column 2, lines 32-47, the motor 32 of Yankaitis has an attached flywheel 44 having a counterweight 45 thereon. A reciprocating arm 48 is attached to the flywheel 44 via a pin in order to convert the rotary motion of the motor to reciprocating type motion. However, Applicant submits that the counterweight 45 of Yankaitis serves to reduce any inherent vibration caused by the off-balance attachment of the reciprocating arm 48 to the flywheel 44 via the pin. There is no teaching or suggestion by Yankaitis that the aforescribed assembly functions as a vibrating assembly, or that any vibration is initiated within the housing 22. In fact, Applicant submits that the use of counterweight 45 by Yankaitis teaches away from the vibrating assembly of claim 35.

In addition, Applicant submits that Yankaitis fails to teach or suggest the additional feature of claim 35 of "wherein the vibrating assembly comprises a motor having a rotating shaft; and an eccentric member mounted to, and rotated by, the shaft to effectuate the vibration initiated within the housing." As previously discussed, the flywheel 44 of Yankaitis is counterweighted in order to reduce vibration of the assembly, whereas the invention of claim 35 includes an eccentric member which serves to effectuate vibration initiated within a housing. For at least the foregoing reasons, Applicant respectfully submits that independent claim 35

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distinguishes over Yankaitis and requests that the 35 U.S.C. 102(b) rejection of claim 35 be withdrawn.

Claim 38 is dependent upon and includes the limitations of independent claim 35. For at least the reasons as discussed with respect to independent claim 35, Applicant respectfully submits that claim 38 also distinguishes over Yankaitis and requests that the 35 U.S.C. 102(b) rejection of claim 38 be withdrawn.

Claims 22-23, 26-27, 30-31, and 39-40 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Shepherd as applied to claims 21, 25, and 29, above, and further in view of Yankaitis. Claims 23, 27, 30, and 31, are dependent upon and include the limitations of their respective independent claims 21, 25, and 29. As previously discussed, Shepherd fails to teach or suggest the features of independent claims 21, 25, and 29. The Office Action acknowledges that Shepherd fails to show "an eccentric mounted to the motor." The Office Action attempts to use Yankaitis to overcome this deficiency. In particular, the Office Action asserts that "it would have been obvious to provide Shepherd with an eccentric as shown by Yankaitis since merely one equivalent mechanical part is being substituted for another and the function is the same." The Office Action further asserts that "Yankaitis shows a flywheel 44, but it would have been obvious to employ a cam since the function is the same and no stated problem is solved." Applicant respectfully disagrees with these assertions. As previously discussed, Applicant submits that neither Shepherd nor Yankaitis teach or suggest a "vibrating assembly" as found in claims 21, 25, and 29 of the present invention. In addition, Applicant submits that the flywheel 44 of Yankaitis cannot be equated with the cam of claims 23, 27, and 31. As previously discussed, the flywheel 44 does not function to cause vibration due to its counterweighted nature, whereas the cam of claims 23, 27, and 31 is used to effectuate vibration. For at least the foregoing reasons, Applicant respectfully submits that claims 23, 27, 30, and 31 distinguish over Shepherd in view of Yankaitis and requests that the 35 U.S.C. 103(a) rejection of claims 23, 27, 30, and 31 be withdrawn.

Independent claim 39 includes the feature of a vibrating assembly including "an eccentric member mounted to said shaft for vibratory rotation within said fishing pole." For similar reasons as those discussed above, Applicant submits that independent claim 39

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distinguishes over Shepherd in view of Yankaitis and requests that the 35 U.S.C. 103(a) rejection of claim 39 be withdrawn.

Claim 40 is dependent upon and includes the limitation of independent claim 39. For at least the reasons as discussed with respect to independent claim 39, Applicant respectfully submits that claim 40 also distinguishes over Shepherd in view of Yankaitis and requests that the 35 U.S.C. 103(a) rejection of claim 40 be withdrawn.

Claims 37 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Yankaitis. Claim 37 is dependent upon claim 35 and includes the further feature of "wherein the eccentric member comprises a cam." The Office Action asserts that "Yankaitis shows a flywheel 44, but it would have been obvious to employ a cam since the function is the same and no stated problem is solved." Applicant respectfully disagrees with this assertion. For similar reasons as those discussed in regard to claims 23, 27, 30, and 31, Applicant respectfully submits that the flywheel 44 of Yankaitis cannot be equated with the cam of claim 37. For at least the foregoing reasons, Applicant respectfully submits that claim 37 distinguishes over Yankaitis and requests that the 35 U.S.C. 103(a) rejection of claim 37 be withdrawn.

Claims 33-34, 41, and 42 stand objected to as being dependent upon a rejected base claim, but are indicated as allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claim 20 has been allowed. Applicant wishes to thank the Examiner for the allowance of claim 20, and the indication of allowable subject matter with respect to claims 33-34, 41, and 42.

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In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Dated: November 19, 2003

Respectfully submitted,

By Michael W. Maddox
Michael W. Maddox

Registration No.: 47,764
JENKENS & GILCHRIST, A PROFESSIONAL
CORPORATION
1445 Ross Avenue, Suite 3200
Dallas, Texas 75202
(214) 855-4500
(214) 855-4300 (Fax)